

ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING AND CREATING RULES

To amend HFS 107.13 (2) (c) 5., and (4) (c) 4.; and to create chapter HFS 36, HFS 105.257, 107.13 (6) (b) 4. and (7), relating to standards for certification and criteria for determining the need for psychosocial rehabilitation services, and other conditions of coverage of community-based psychosocial rehabilitation services under the medical assistance program. 2003 Wisconsin Act 33, s. 9124 (10m) authorizes the Department to promulgate these rules using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency. These are the emergency rules. Similar initial proposed rules were submitted to the Legislative Council Rules Clearinghouse on March 23, 2004.

Analysis Prepared by the Department of Health and Family Services

Statutes Interpreted: Sections 49.45 (30e), 49.46 (2) (b) 6. Lm, 51.04, 51.42 (7) (b), and 51.61, Stats.

Statutory Authority: Sections 49.45 (30e) (b), 51.42 (7) (b), and 227.11 (2) (a), Stats.

Explanation of agency authority: 1997 Wisconsin Act 27 created s. 49.45 (30e), Stats., relating to conditions for reimbursement of community-based psychosocial services programs under the medical assistance program and authorized the department to create rules establishing the scope of the psychosocial services that may be provided under s. 49.46 (2) (b) 6. Lm, Stats., standards for eligibility for those services, and certification requirements for community-based psychosocial programs under the medical assistance program. Section 49.45 (30e) (b) requires the Department to promulgate rules.

Related statute or rule: Sections 49.45 (30e), 49.46 (2) (b) 6. Lm, 51.42 (7) (b), Stats., chs. HFS 105 and 107.

Plain language analysis:

The Department through this proposed order establishes the scope of community-based psychosocial rehabilitation services programs, standards for certification and criteria for determining the need for psychosocial rehabilitation services, and other conditions of coverage of community-based psychosocial rehabilitation services under the medical assistance program as authorized by ss. 49.45 (30e) and 51.42 (7) (b), Stats. The Department anticipates that the rules created in this order will complement services provided by existing community support programs under s. 51.421, Stats., by making a fuller array of mental health and substance-use disorder services potentially available to those in need in each county or tribe. The Department further anticipates that this order will allow for the creation of a broad range of flexible, consumer-centered, recovery-oriented psychosocial rehabilitation services to both minors and adults, including elders, whose psychosocial

needs require more than outpatient therapy, but less than the level of services provided by existing community support programs. Certified community-based psychosocial rehabilitation services programs that meet the requirements of s. 49.45 (30e), Stats., and this order may be fully or partially funded by medical assistance with county or tribal match. These programs may also coordinate with other existing funding sources.

Summary of, and comparison with, existing or proposed federal regulation:

The federal regulations at 42 CFR 440.130 (d) state, “Rehabilitative services,” except as otherwise provided under this subpart, includes any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law, for maximum reduction of physical or mental disability and restoration of a consumer to his best possible functional level.” The Center for Medicare and Medicaid Services (CMS) has interpreted this section of the regulations to include psychosocial rehabilitation services and permit development of such services as an optional Medicaid benefit in a State Medicaid plan. CMS makes a distinction in various documents between rehabilitative services of physical therapy, occupational therapy, speech therapy, etc. and psychosocial rehabilitative services.

Comparison with rules in adjacent states:

Illinois

Sources:

Mental Health Program Book, Office of Mental Health, Department of Human Services: Chapter 300: Rehabilitation and Support Program I (Psychosocial Rehabilitation and Support Core Services; Day Rehabilitation Program Services; Care Management Core Services; and Residential Core Services)

1. 59 Illinois Administrative Code, Chapter IV, Subpart E: Rehabilitative Services

Similarities:	Differences:
1. Predicated on recovery, consumer-centered, psycho-educational model	1. Illinois's requirements are more prescriptive (e.g., minimum staff-to-consumer ratios and minimum number of consumers per provider/program)
2. Training and services occur in the community (i.e., in situations in which the consumer has impediments to independent functioning)	2. Community Resource Development is a core service (e.g., job banks, employer councils, innovative housing initiatives)
3. Provides social skills, vocational and leisure/recreation training	3. Requirements for determining the need for services do not mention children or elders, although there is a core service for children 17 and older to transition to adult services (note: the regulations do indicate that children and their families are eligible for services if the child requires in-home or other intensive therapeutic interventions)
4. Permit peer-support and clubhouse models of delivery of services	4. Involvement of natural supports is not discussed in Illinois's requirements
5. Providers are expected to have consumer	5. Illinois has a regional system of mental

Similarities:	Differences:
representation on their governing/advisory boards	health delivery
	6. Illinois has a “client transitional subsidy” for persons being discharged from a hospital, or long-term care facility that can fund basic needs (e.g., housing, food, medications) for up to three months to a total of \$600---persons receiving these services must be enrolled in a CSP or case management
	7. The expectations for residential core services are comparable to the requirements under HFS 82 and 83
	8. Criteria for determining the need for psychosocial rehabilitation services varies based on the core service, although overall is as broad as our criteria
	9. There are general termination criteria for extended and rehabilitation services and psychosocial rehabilitation day program services that permit discharge if the consumer fails to make progress towards stated goals
	10. Providers are expected to coordinate with other mental health services, but providers are responsible only for their services; our CCS rule requires an overall county plan for mental health services
	11. Illinois’s regulations are not integrated across the core services, but rather are specific to each core service

Iowa

Source:

1. Iowa Administrative Code – Chapter 24: Accreditation of Providers of Services to Persons with Mental Illness, Mental Retardation, and Developmental Disabilities
2. A conversation with James Overland, Chief of the Bureau of Community Services, Division of Behavioral, Developmental and Protective Services, Department of Human Services

The State of Iowa has a managed care system that addresses mental health, as well as physical health, needs. As a result, the administrative code addressing mental health issues is extremely brief. Their rules consist of performance benchmarks (e.g., individualized and appropriate intervention services and treatments are provided in ways that support the needs, desires, and goals identified in the service plan, and that respect the rights and choices of the individual using the service) and performance indicators (e.g., staff document in the narrative the individual’s participation in the treatment program).

These performance benchmarks and indicators are globally stated and are meant to evaluate a managed care delivery system. Funding may be withheld for failure to meet the performance benchmarks or indicators. In a fee-for-service system, such as Wisconsin's, the administrative code must indicate failure to meet the requirements based on the scope and severity of deficiencies noted by a licensor, which then results in the possibility of termination or non-renewal of the provider's license's. Therefore, a comparison between Iowa and Wisconsin's psychosocial rehabilitation services has marginal utility.

Michigan

Sources:

1. State of Michigan Administrative Code, R 330.2005 – 330.2814, which address community mental health programs of emergency intervention services, prevention services, outpatient services, aftercare services, day program and activity services, public information services, inpatient services, and community/caregiver services.

The State of Michigan has a managed care system that addresses mental health, as well as physical health, needs. As a result, the administrative code addressing mental health issues is extremely brief. For example, the requirements for day program and activity services is only five lines long and states that these services shall include providing habilitative and rehabilitative treatment and training activity. The administrative code does not reference recovery, involvement of consumers on a governing/advisory board, etc.

Minnesota

Sources:

1. Minnesota Statutes, s. 256B.0623, Covered service: adult rehabilitative mental health services.
2. A conversation with Richard Seurer, Planning Analyst in the Mental Health Division, Department of Human Services

Similarities:	Differences:
1. We borrowed language from the Minnesota statutes regarding the mental health rehabilitation worker, which provided a definition of "peer support".	1. Minnesota avoided the rule writing process by getting the legislature to incorporate into the statutes the language necessary to establish the benefit and provider requirements.
2. Requirements for determining the need for psychosocial rehabilitation services are comparable; however, they do not require a diagnosis of a mental illness, <i>per se</i> .	2. As indicated in the title for this section of their statutes, the benefit does not cover children.
3. Staff training and supervision requirements are comparable, although our rule contains specific training areas that the CCS must provide and our rule is less prescriptive regarding supervision.	3. The statutes do not contain any mention of "elders" or any specific requirements for elders.
4. The scope of services permitted under the benefit are comparable.	4. While Minnesota does a site review every three years for recertification, they only pull a small sample of records (i.e., three) and

Similarities:	Differences:
	do not meet with consumers.
	5. There is no specific mention of “recovery” or “strength-based assessments” in Minnesota’s requirements.
	6. Minnesota excludes some specific services from Medicaid reimbursement that we want to offer (e.g., outreach services to potential consumers and transportation services).

Summary of factual data and analytical methodologies:

If psychosocial rehabilitation services currently are being provided, then the individual consumer or the county of responsibility is paying for the cost of the services. Counties report data to the department regarding county delivered services, but only for areas of services that currently exist. Therefore, there is no data pertinent to psychosocial rehabilitation services available to the department for any analysis of services or expenditures related to the services.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

The rule language was developed with input from an advisory committee comprised of county representatives, mental health advocates, consumer representatives, and mental health provider representatives. Also, a review of statutory and regulatory requirements for similar programs in surrounding states was completed, which assisted in the development of the rule.

Anticipated costs incurred by private sector:

If psychosocial rehabilitation services currently are being provided, then the individual consumer or the county of responsibility is paying for the cost of the services. This rule will permit the county of responsibility to use their existing funds that are being expended for these services as the required match to the federal portion of Medicaid funding (federal financial participation or FFP). The increase in available funding may result in an increase in revenues for a local small business if the county and the consumer select the business as a provider of a component of the psychosocial rehabilitation services for the consumer.

Effect on small business:

There will be no adverse affect on small businesses. If psychosocial rehabilitation services currently are being provided, then the individual consumer or the county of responsibility is paying for the cost of the services. This rule will permit the county of responsibility to use their existing funds that are being expended for these services as the required match to the federal portion of Medicaid funding (federal financial participation or FFP). The increase in available funding may result in an increase in revenues for a local small business if the county and the consumer select the business as a provider of a component of the psychosocial rehabilitation services for the consumer.

Agency contact person:

Sally Raschick
Bureau of Mental Health and Substance Abuse Services
1 West Wilson Street
P.O. Box 7851
Madison, WI 53707-7851
(608) 261-9313 or, if you are hearing impaired, (608) 261-9314 (TTY)
raschsc@dhfs.state.wi.us

Place where comments are to be submitted and deadline for submission:

Public hearings will be held:

<u>Date & Time</u>	<u>Location</u>
July 6, 2004 Tuesday 10:00 a.m. to 1:00 p.m.	SRO Room 176 2917 International Lane Madison, WI
July 7, 2004 Wednesday 10:00 a.m. to 1:00 p.m.	WRO Room 123 610 Gibson Street Eau Claire, WI
July 8, 2004 Thursday 10:00 a.m. to 1:00 p.m.	NERO Room 152 A 200 N. Jefferson Street Green Bay, WI

Written comments, on both the proposed permanent rules and the emergency rules, may be submitted in lieu of attending a public hearing by regular mail or email to the contact person listed above. Written comments for the proposed permanent rules and the emergency rules may also be submitted using the Wisconsin Administrative Rules website at the Internet address listed below. The **deadline for comment submission** on both the proposed permanent rules and the emergency rules is **4:30 p.m., July 13, 2004.**

ORDER

SECTION 1. HFS 36 is created to read:

CHAPTER HFS 36

COMPREHENSIVE COMMUNITY SERVICES FOR
PERSONS WITH MENTAL DISORDERS
AND SUBSTANCE-USE DISORDERS

SUBCHAPTER I GENERAL PROVISIONS

- HFS 36.01 Authority and purpose
- HFS 36.02 Applicability
- HFS 36.03 Definitions

SUBCHAPTER II CERTIFICATION

- HFS 36.04 Certification requirements
- HFS 36.05 Certification process
- HFS 36.06 Enforcement actions
- HFS 36.065 Waivers and variances

SUBCHAPTER III COMPREHENSIVE COMMUNITY SERVICES PROGRAM

- HFS 36.07 Comprehensive community services plan
- HFS 36.08 Quality improvement
- HFS 36.09 Coordination committee

SUBCHAPTER IV PERSONNEL

- HFS 36.10 Personnel policies
- HFS 36.11 Supervision and clinical collaboration
- HFS 36.12 Orientation and training

SUBCHAPTER V CONSUMER SERVICES

- HFS 36.13 Consumer application
- HFS 36.14 Criteria for determining the need for psychosocial rehabilitation services
- HFS 36.15 Authorization of services
- HFS 36.16 Assessment process
- HFS 36.17 Service planning and delivery
- HFS 36.18 Consumer service records
- HFS 36.19 Consumer rights

SUBCHAPTER I GENERAL PROVISIONS

HFS 36.01 Authority and Purpose. This chapter is promulgated under the authority of ss. 49.45 (30e) (b) and 51.42 (7) (b), Stats., to establish the scope of psychosocial service programs, standards for certification and criteria for determining the need for psychosocial rehabilitation services, and other conditions of coverage of community based psychosocial services under the medical assistance program pursuant to ss. 49.45 (30e) and 49.46 (2) (b) 6. Lm, Stats.

HFS 36.02 Applicability. (1) This chapter applies to the department and to county departments and tribes that apply for certification or are certified to provide comprehensive community services under ss. 49.45 (30e) and 51.42 (7) (b), Stats.

(2) Programs operating under this chapter shall do business as comprehensive community services programs.

(3) This chapter regulates only comprehensive community services programs. This chapter is not intended to regulate other mental health or substance-use disorder programs.

(4) Persons covered under the comprehensive-community services programs include children and adults, including elders, with mental disorders or substance-use disorders.

HFS 36.03 Definitions. In this chapter:

(1) "Adult" means an individual 18 years of age or older.

(2) "Assessment" means the process used to identify the strengths, needs and desired outcomes of a consumer and to evaluate progress toward desired outcomes.

(3) "Certification" means the approval by the department of a comprehensive community services program.

(4) "Comprehensive community services program" or "CCS" has the same meaning as "community-based psychosocial service program" under s. 49.45 (30e), Stats., namely a county-wide or tribal community-based psychosocial rehabilitation program that is operated by a county department or tribe to provide or arrange for the provision of psychosocial rehabilitation services.

(5) "Coordination committee" means a group of individuals appointed by the county department or tribal government to advise and assist the county department or tribal government in the development and quality improvement of psychosocial rehabilitation services.

(6) "Comprehensive community services plan" means the plan developed under s. HFS 36.07.

(7) "Consumer" means an individual who has been determined to need psychosocial rehabilitation services.

Note: Family members of the consumer or the consumer's primary caregivers also are considered to be consumers, and therefore, may receive services related to the consumer's disorder.

(8) "Co-occurring disorder" means any combination of a substance-use disorder and a mental disorder identified in the Diagnostic and Statistical Manual of Mental Disorder – Fourth Edition - Text Revision (DSM-IV-TR) published by the American Psychiatric Association.

(9) "County department" means a county department of human services under s. 46.23, Stats., or a county department of community programs established under s. 51.42, Stats., to administer community mental health and alcohol and drug abuse programs on a single-county or multi-county basis.

(10) "Department" means the Wisconsin department of health and family services.

(10m) "Elder" means a person who is age 60 or older or who is subject to the infirmities of aging.

(11) "Family member," means a parent, legal custodian, sibling, spouse, child, or primary caregiver of a consumer.

(11m) "Infirmities of aging" has the meaning given in s. 55.01 (3), Stats.

(12) "Legal custodian" means an individual to whom legal custody of a minor has been granted by a court in an action under ch. 48 or 767, Stats.

(13) "Legal representative" means any of the following:

(a) A guardian as defined under s. 880.01 (3), Stats.

(b) A health care agent as defined in s. 155.01 (4), Stats., if the principal has a finding of incapacity pursuant to s. 155.05 (2), Stats.

(14) "Medical assistance" means the assistance program under 42 USC 1396 and ss. 49.43 to 49.475 and 49.49 to 49.497, Stats.

(15) "Mental disorder" means a diagnosis meeting the criteria in the Diagnostic and Statistical Manual of Mental Disorders - Fourth Edition – Text Revision (DSM-IV-TR) excluding the categories of dementia, substance-related disorders, and developmental disability as defined in 42 CFR 435.1009.

Note: DSM-IV-TR is published by the American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision. Washington, DC, American Psychiatric Association, 2000. DSM-IV-TR may be ordered through <http://www.appi.org/book.cfm?id=2024> or other sources.

(16) "Mental health professional" means a staff member who is qualified under s. HFS 36.10 (2) (g) 1. to 8.

(17) "Minor" means an individual under the age of 18 years.

(18) "Natural supports" means a friend, or other person available in the community who may assist consumers seeking stability and independence.

(19) "Outreach" means identifying and contacting individuals with mental disorders or substance-use disorders to directly engage and link with individuals who need psychosocial rehabilitation services or other mental health or substance-use disorder services, and making referral agreements with psychiatric inpatient units, residential treatment facilities, outpatient treatment clinics and other community treatment and service providers as appropriate.

(20) "Parent" means a biological parent; an adoptive parent; a husband who has consented to the artificial insemination of his wife under s. 891.40, Stats.; a male who is

presumed to be the father under s. 891.41, Stats.; or a male who has been adjudicated the child's father either under s. 767.51, Stats., or by final order or judgment of a court of competent jurisdiction in another state. "Parent" does not include individuals whose parental rights have been terminated.

(21) "Primary care giver" means an individual who provides a majority of a consumer's day-to-day support, shelter, sustenance or nurturing.

(22) "Psychosocial rehabilitation services" has the same meaning as "psychosocial services" under s. 49.45 (30e), Stats., namely the medical and remedial services and supportive activities provided to or arranged for a consumer by a comprehensive community services program authorized by a mental health professional to assist individuals with mental disorders or substance-use disorders to achieve the individual's highest possible level of independent functioning, stability and independence and to facilitate recovery.

(23) "Recovery" means the process of a person's growth and improvement, despite a history of mental or substance use disorder in attitudes, values, feelings, goals, skills and behavior and is measured by a decrease in dysfunctional symptoms and an increase in maintaining the person's highest level of health, wellness, stability, self-determination and self-sufficiency.

(24) "Recovery team" means the group of individuals who are identified to participate in an assessment of the needs of the consumer, service planning and delivery, and evaluation of desired outcomes.

(25) "Service facilitation" means any activity that ensures the consumer receives assessment services, service planning, service delivery and supportive activities in an appropriate and timely manner.

(26) "Service facilitator" means a staff member who is qualified under s. HFS 36.10 (2) (g) 1. to 21. and who has the overall responsibility for service facilitation.

(27) "Service plan" means a written plan of psychosocial services to be provided or arranged for a consumer that is based on an individualized assessment of the consumer.

(28) "Service provider" means an agency or individual that provides one or more mental health or substance-use treatment or services.

(29) "Staff member" means a person employed by a county department, tribe, or contracted agency.

(30) "Substance abuse professional " means a person who meets the requirements of s. HFS 75.02 (84), a physician knowledgeable in addiction treatment, or a psychologist knowledgeable in psychopharmacology and addiction treatment.

(31) "Substance-use disorder" means a condition related to the use of alcohol or a drug of abuse listed in the DSM IV-TR.

(32) "Supportive activities" means actions and events that help address the needs and recovery goals of a consumer.

(33) "Tribe" means a federally recognized American Indian tribe or band.

SUBCHAPTER II CERTIFICATION

HFS 36.04 Certification requirements. (1) APPLICATION. (a) A county department or tribe seeking to operate a certified comprehensive community services program shall apply to the department for certification on an application form provided by the department.

Note: An application for certification may be obtained by writing to the Program Certification Unit, Division of Disability and Elderly Services, 2917 International Lane, Suite 300, Madison, WI 53704.

(2) APPLICATION MATERIALS. The application shall be accompanied by all of the following:

(a) Required fees.

(b) A copy of the comprehensive community services plan developed under s. HFS 36.07.

(c) A copy of the personnel policies and procedures developed under s. HFS 36.10 and operational policies developed.

(d) A copy of any previously approved waiver or variance and information on the current status.

(e) Any other information required by the department.

HFS 36.05 Certification process. (1) In this section:

(a) "Deficiency" means the failure to meet a requirement of this chapter.

(b) "Major deficiency" means a determination by the department that an aspect of the CCS program or the conduct of its personnel does any of the following:

1. The psychosocial rehabilitation services substantially fail to meet the requirements of this chapter.

2. Creates a risk of harm to a consumer or violates a consumer right created by this chapter or other state or federal statutes or rules, which may include any one of the following of the following:

a. A staff member has had sexual contact or intercourse, as defined in s. 940.225 (5) (b) or (c), Stats., with a consumer.

b. A staff member of the CCS has been convicted of consumer abuse under s. 940.285, 940.29 or 940.295, Stats.

c. The health or safety of a consumer is in imminent danger because of a failure of the CCS or a CCS staff member to comply with requirements of this chapter or any other applicable local, state or federal statute or regulation.

3. The CCS has submitted, or caused to be submitted, one or more statements for purposes of obtaining certification under this chapter which the CCS knew or should have known to be false.

4. A license, certification or required local, state or federal approval of the CCS has been revoked or suspended or has expired.

5. A staff member has signed a billing statement or other document that represents the CCS staff member as the provider of service when the staff member did not provide the service.

6. A staff member impedes or has impeded monitoring of the program by the department.

7. An action or inaction by a staff member constitutes grounds for involuntary termination or suspension from program participation under s. HFS 106.06.

(2) INITIAL APPLICATION. Upon receipt of a complete application for initial certification, the department shall review the application and accompanying materials required under s. HFS 36.04 (2). The department's designated representative responding to a request for an initial certification shall review CCS personnel policies and procedures and operational policies, and the community services plan developed under s. HFS 36.07.

(3) APPLICATION FOR RENEWAL. (a) The department shall send written notice of the expiration of certification and an application for renewal of certification to a certified CCS at least 90 days before expiration of the certification. If the department does not receive a complete application for renewal of certification before the expiration date, the certification shall terminate on the expiration date of the certification. A CCS that wishes to renew an expired certification shall apply as required in s. HFS 36.04.

(b) Before applying for renewal of certification, a CCS shall review the continuing appropriateness of its comprehensive community services plan. The CCS shall revise the plan based on feedback of department representatives and consultation with and input received from staff members, consumers, family members, service providers and interested members of the public. The revised plan shall include responses to information derived from the quality improvement activities under s. HFS 36.08, and the coordination committee under s. HFS 36.09.

(c) Upon receipt of a complete application for renewal of certification, the department shall review the application and designate a representative to conduct an on-site survey of the CCS.

(d) The survey conducted under par. (c) shall be used to determine whether the CCS is in compliance with the standards specified in this chapter.

(e) The CCS shall make available for review by the department's designated representative any documentation requested to determine whether the CCS is in compliance with the standards of this chapter, including all of the following:

1. The CCS plan, policies and procedures.
2. Staff member work schedules.
3. CCS appointment records.
4. Staff member credentials and service records, and supervision records.
5. Documentation deemed relevant by the CCS.

6. The results of consumer satisfaction surveys, coordination committee recommendations, and descriptions of any modification of the CCS program shall be made available for review by the department.

7. Any other information requested by the department.

(f) Any designated representative of the department who reviews documents or who conducts an interview under this chapter shall preserve the confidentiality of the information reviewed or obtained in compliance with s. 51.30, Stats., ch. HFS 92, Health Insurance Portability and Accountability Act (HIPAA), and as applicable, 42 CFR Part 2.

(4) TRANSFERABILITY OF CERTIFICATION. Certification may only be issued to the CCS specified in the application. A CCS may not transfer or assign its certification to another entity. An applicant or certified CCS shall notify the department of any change in administration, location, name, offered services or any other change that may affect compliance with this chapter no later than the effective date of the change.

(5) EFFECTIVE DATE OF CERTIFICATION. (a) The date of certification shall be the date that the department determines that an applicant is in compliance with this chapter.

(b) The department may change the date of certification if the department has made an error in the certification process. A date of certification that is adjusted under this paragraph may not be earlier than the date the department receives a written application under sub. (2) or (3).

(6) FEES FOR CERTIFICATION. Fees for certification shall be established by the department.

(7) ISSUANCE OF CERTIFICATION. (a) *Action on application.* Within 60 days after receiving a completed application for initial certification or for renewal of certification, the department shall do one of the following:

1. Approve the CCS if no deficiencies are found and all of the requirements for certification are met.

2. Issue a provisional certification under sub. (8), if the applicant has one or more deficiencies, that do not meet the definition of a major deficiency.

3. Deny certification under sub. (9), if the department finds one or more major deficiencies.

(b) *Duration of certification.* The department may limit the initial certification of a CCS to one year. Certification may be renewed for up to 3 years provided the CCS has applied for renewal and the CCS continues to meet the requirements for certification. Certification is subject to suspension, revocation, or refusal to renew as specified in s. HFS 36.06.

(8) PROVISIONAL CERTIFICATION. (a) If the department determines that the CCS has one or more deficiencies that do not meet the definition of a major deficiency, the department shall issue a notice of deficiency to the CCS and offer the CCS provisional certification.

(b) If a CCS wishes to operate under a provisional certification, the CCS shall submit a plan of correction to the department within 30 days of the date of the notice of deficiency. The plan of correction shall identify the specific steps the CCS will take to correct the deficiency and the timeline within which the corrections will be made. If a CCS does not wish to operate under a provisional certification, the department shall issue a denial of certification under sub. (9).

(c) If the department approves the plan of correction it shall provisionally certify the CCS and establish an expiration date for the provisional certification.

(d) Before a provisional certification expires, the department may conduct an on site inspection of the CCS to determine whether the proposed corrections have been made. Upon completion of an inspection, or in place of an inspection, the department shall do one of the following:

1. If the CCS has accomplished the goals of the plan of correction and made the required corrections, withdraw the notice of deficiency and certify the CCS under sub. (7) (a) 1.

2. Extend the provisional certification if substantial progress is made towards correcting deficiencies previously cited.

3. If a deficiency cited in the notice of deficiency has not been corrected, the goals of the plan of correction have not been accomplished, or a major deficiency is found, deny certification under sub. (9).

(9) DENIAL OF CERTIFICATION. A denial of certification shall be in writing and shall contain the reason for the denial and notice of opportunity for a hearing under s. HFS 36.06 (3).

HFS 36.06 Enforcement actions. (1) REVOCATION AND SUSPENSION. The department may revoke or suspend certification at any time upon written notice to the CCS. The notice shall state the reason for the action and inform the CCS of the opportunity for a hearing under sub. (3).

(2) INSPECTIONS. (a) The department may make announced and unannounced inspections of a certified CCS to verify compliance with this chapter, to investigate complaints received regarding the services provided by the CCS, or as part of an investigation into the cause of death of a consumer.

(b) In making inspections, the department shall seek to minimize any disruption to the normal functioning of the CCS.

(c) Any authorized officer, employee or agent of the department shall have access to all CCS documents, open and closed consumer records, staff members and consumers at any time to ensure compliance with the requirements of this chapter and other applicable federal and state statutes and regulations.

(3) APPEALS. (a) If the department denies, revokes, suspends, or refuses to renew certification, the CCS may request an administrative hearing under ch. 227, Stats. If a timely request for hearing is made on a decision to suspend or revoke or not renew a certification, that action is stayed pending the decision on the appeal except when the department finds that the health, safety or welfare of patients requires that the action take effect immediately. A finding of a requirement for immediate action shall be made in writing by the department.

(b) A request for hearing shall be submitted in writing to the department of administration's division of administrative hearings within 30 days after the date of the notice of the department's action.

Note: A request for hearing may be delivered in person or mailed to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53707-7875. An appeal may be sent by fax to the Division's facsimile transmission number at (608) 264-9885.

(4) ACTIONS BARRING SERVICE IN A CCS. Any person having direct management responsibility for a CCS who was involved in any one of the following may not provide service in or for a certified CCS for a period not to exceed 5 years:

(a) An act that results in termination of a health care provider certification under s. HFS 106.06.

(b) An act that results in conviction for a criminal offense related to services provided under s. 632.89, Stats., whether or not the conviction is under appeal.

(c) An act involving a staff member who removes or destroys consumer service records.

HFS 36.065 Waivers and variances. (1) DEFINITIONS. As used in this section: (a) "Waiver" means the grant of an exemption from a non-statutory requirement of this chapter.

(b) "Variance" means the granting of an alternate requirement in place of a non-statutory requirement of this chapter.

(2) WAIVERS OR VARIANCES. (a) An application for a waiver or a variance may be made at any time. Each request shall be made in writing to the department and shall include all of the following:

1. Identification of the rule provision from which the waiver or variance is requested.
2. The time period for which the waiver or variance is requested.
3. If the request is for a variance, the specific alternative action that the CCS proposes.
4. The reasons for the request.
5. Supporting justification.
6. Any other information requested by the department.

Note: An application for a waiver or variance should be addressed to the Program Certification Unit, Division of Disability and Elder Services, 2917 International Lane, Suite 300, Madison, WI, 53704.

(b) A waiver or variance may be granted if the department finds that the waiver or variance will not adversely affect the health, safety, or welfare of any consumer and any one of the following applies:

1. Strict enforcement of a requirement would result in unreasonable hardship on the CCS or on a consumer.
2. An alternative to a rule, including new concepts, methods, procedures, techniques, equipment, personnel qualifications, or the conducting of pilot projects is in the interest of better care or management.

(c) A determination on a request for a waiver or variance shall be made to the CCS in writing. If the decision is to deny the waiver or variance, the reason for the denial shall be included in the notice.

(d) The terms of a variance may be modified upon agreement between the department and the CCS. The department may impose any condition on a waiver or variance which the department deems necessary.

(e) The department may limit the duration of any waiver or variance.

(f) The department may revoke a waiver or variance if any one of the following occurs:

1. The waiver or variance adversely affects the health, safety or welfare of a consumer.
2. The CCS has failed to comply with the variance as granted.
3. The CCS notifies the department that it wishes to relinquish the waiver or variance.
4. There is a change in applicable law.
5. For any other reason necessary to protect the health, safety, and welfare of a consumer.

SUBCHAPTER III COMPREHENSIVE COMMUNITY SERVICES PROGRAM

HFS 36.07 Comprehensive community services plan. Each CCS program shall have a written plan that shall include all of the following:

(1) A description of the organizational structure. The description shall include all of the following:

(a) Responsibilities of the staff members assigned to the functions described in s. HFS 36.10 (2) (e).

(b) Policies and procedures to implement a quality improvement plan consistent with the requirements in s. HFS 36.08.

(c) Policies and procedures to establish a coordination committee and work with a coordination committee consistent with the requirements in s. HFS 36.09.

(d) Criteria for recruiting and contracting with providers of psychosocial rehabilitation services.

(e) Policies and procedures for updating and revising the CCS plan to ensure that it accurately identifies current services provided and any changes in policies and procedures of the CCS.

(2) A written summary detailing the recommendations of the coordination committee made under s. HFS 36.09 (3) (a) and a written response by the CCS to the coordination committee's recommendations.

(3) A description of the currently available mental health, substance-use disorder, crisis services, and other services in the county or tribe and how the CCS will interface and enhance these services. The description shall include policies and procedures for developing and implementing collaborative arrangements and interagency agreements addressing all of the following:

(a) Processes necessary to include the CCS in planning to support consumers who are discharged from a non-CCS program or facilities that include inpatient psychiatric or substance-use treatment, a nursing home, residential care center, day treatment provider, jail or prison.

(b) The role of the CCS when an emergency protective placement is being sought under s. 55.06 (11) Stats., and when protective services or elder abuse investigations are involved.

(c) The role of the CCS when the CCS provides services in conjunction with any other care coordination service including protective services, integrated services projects, and schools.

(d) The role of the CCS when a consumer is living in the community under a ch. 51, Stats., commitment.

(e) Establishing contracts and agreements with community agencies providing psychosocial rehabilitation services.

(f) Establishing contracts when a needed service is not available in the existing array of services.

(g) Arrangements with the county or tribal emergency services program to ensure identification and referral of CCS consumers who are in crisis.

(4) (a) A description of an array of psychosocial rehabilitation services and service providers to be available through the CCS. The services and service providers shall be determined by all of the following:

1. Identifying anticipated service needs of potential consumers, including minors and the elderly, that are based upon the assessment domains identified in s. HFS 36.16 (4).

2. Identifying treatment interventions to address the needs identified in subd. 1. Treatment interventions for minors and elderly consumers shall be identified separately from other consumers.

(b) The description in par. (a) shall include the methods that the CCS will use to identify and contract with service providers.

(5) Policies and procedures developed for each of the following:

(a) Consumer records that meet the requirements in s. HFS 36.18.

(b) Confidentiality requirements of this chapter.

(c) The timely exchange of information between the CCS and contracted agencies necessary for service coordination.

(d) Consumer rights that meet the requirements of s. HFS 36.19.

(e) Monitoring compliance with this chapter and applicable state and federal law.

(f) Receiving and making referrals.

(g) Communication to the consumer of services offered by the CCS, costs to the consumer, grievance procedure, and requirements for informed consent for medication and treatment.

(h) Ensuring that a consumer's cultural heritage and primary language are considered as primary factors when developing the consumer's service plan and that activities and services are accessible in a language in which the consumer is fluent.

(i) Providing orientation and training that meets the requirements in s. HFS 36.12.

(j) Outreach services.

(k) Application and screening.

(L) Recovery team development and facilitation.

(m) Assessment.

(n) Service planning.

(o) Service coordination, referrals, and collaboration.

(p) Advocacy for the consumer.

(q) Support and mentoring for the consumer.

(r) Discharge planning and facilitation.

(s) Monitoring and documentation.

HFS 36.08 Quality improvement. (1) The CCS shall develop and implement a quality improvement plan to assess consumer satisfaction and progress toward desired outcomes identified through the assessment process.

(2) (a) The plan shall include procedures for protecting the confidentiality of persons providing opinions and include a description of the methods the CCS will use to measure consumer opinion on the services offered by the CCS, assessment, service planning, service delivery, and service facilitation activities.

(b) The plan shall also include a description of the methods the CCS will use to evaluate the effectiveness of changes in the CCS program based on results of the consumer satisfaction survey, recommendations for program improvement by the coordination committee, and other relevant information.

HFS 36.09 CCS Coordination Committee. (1) (a) The CCS shall appoint a coordination committee that includes representatives from various county or tribal departments, including individuals who are responsible for mental health and substance abuse services, service providers, community mental health and substance abuse advocates, consumers, family members and interested citizens.

(b) An existing committee within the county or tribe may serve as the coordinating committee if it has the membership required and agrees to undertake the responsibilities in sub. (3).

(2) At least one-third of the total membership of the coordination committee shall be consumers. No more than one-third of the total membership of the coordination committee may be county employees or providers of mental health or substance abuse services.

(3) The coordinating committee shall do all of the following:

(a) Review and make recommendations regarding the initial and any revised CCS plan required under s. HFS 36.07, the CCS quality improvement plan, personnel policies, and other policies, practices, or information that the committee deems relevant to determining the quality of the CCS program and protection of consumer rights.

(b) Maintain written minutes of meetings and a membership list.

(c) Meet at least quarterly.

SUBCHAPTER IV PERSONNEL

HFS 36.10 Personnel policies. (1) **DEFINITIONS.** In this section, “supervised clinical experience” means a minimum of one hour of supervision per week by one or more staff members who meet the qualifications under par. (2) (g) 1. to 8.

(2) **POLICIES.** The CCS shall have and implement written personnel policies and procedures that ensure all of the following:

(a) *Discrimination prohibited.* Employment practices of the CCS or any agency contracting or subcontracting with the CCS do not discriminate against any staff member or applicant for employment based on the individual’s age, race, religion, color, sexual orientation, national origin, disability, ancestry, marital status, pregnancy or childbirth, or arrest or conviction record.

(b) *Credentials.* Staff members have the professional certification, training, experience and abilities to carry out prescribed duties.

(c) *Background checks and misconduct reporting and investigation.* CCS and contracting agency compliance with the caregiver background check and misconduct reporting requirements in s. 50.065, Stats., and ch. HFS 12, and the caregiver misconduct reporting and investigation requirements in ch. HFS 13.

Note: Forms for conducting a caregiver background check including the background information disclosure form may be obtained from the Department's website at dhfs.wisconsin.gov/HFSNum.htm or by writing or telephoning the Department at Caregiver Regulation and Investigation Section, Bureau of Quality Assurance, 2917 International Lane, Suite 300, Madison WI 53704, (608) 243-2019.

(d) *Staff records.* Staff member records are maintained and include all of the following:

1. References for job applicants obtained from at least 2 people, including previous employers, educators or post-secondary educational institutions attended if available, and documented either by letter or verification of verbal contact with the reference, dates of contact, person making the contact, individuals contacted and nature and content of the contact.
2. Confirmation of an applicant's current professional license or certification, if that license or certification is necessary for the staff member's prescribed duties or position.
3. The results of the caregiver background check conducted in compliance with par. (c), including a completed background information disclosure form for every background check conducted, and the results of any subsequent investigation related to the information obtained from the background check.

(e) *Staff functions.* The CCS has the appropriate number of staff to operate the CCS in accordance with the CCS plan, this chapter, and applicable state and federal law. One or more staff members shall be designated to perform all of the following functions:

1. Mental health professional and substance abuse professional functions. The responsibilities of a mental health professional and a substance abuse professional shall include the responsibilities required under ss. HFS 36.15, 36.16 (2), (6) and (7), and 36.17 (6) (b) (4).
2. Administrator functions. A staff member designated to perform these functions shall have the qualifications listed under par. (g) 1. to 14. whose responsibilities shall include overall responsibility for the CCS, including compliance with this chapter and other applicable state and federal regulations and developing and implementing policies and procedures.
3. Service director functions. A staff member designated to perform these functions shall have the qualifications listed under par. (g) 1. to 8. whose responsibilities shall include responsibility for the quality of the services provided to consumers and day-to day consultation to CCS staff.
4. Service facilitation functions. A staff member designated to perform these functions shall have the qualifications listed under par. (g) 1. to 22., whose responsibilities shall include ensuring that the service plan and service delivery for each consumer is integrated, coordinated and monitored, and is designed to support the consumer in a manner that helps the consumer to achieve the highest possible level of independent

functioning. The responsibilities of a service facilitator shall include the responsibilities required under ss. HFS 36.16 (2) and 36.19.

(f) *Supervision and clinical collaboration.* Supervision and clinical collaboration of staff shall meet the requirements in s. HFS 36.11.

(g) *Minimum qualifications.* Each staff member shall have the interpersonal skills training and experience needed to perform the staff member's assigned functions and each staff member who provides psychosocial rehabilitation services shall meet the following minimum qualifications:

1. Psychiatrists shall be physicians licensed under ch. 448, Stats., to practice medicine and surgery and shall have completed 3 years of residency training in psychiatry or child psychiatry in a program approved by the accreditation council for graduate medical education and be either board-certified or eligible for certification by the American board of psychiatry and neurology.

2. Physicians shall be persons licensed under ch. 448, Stats., to practice medicine and surgery who have knowledge and experience related to mental disorders of adults or children; or, who is certified in addiction medicine by the American society of addiction medicine, certified in addiction psychiatry by the American board of psychiatry and neurology or otherwise knowledgeable in the practice of addiction medicine.

3. Psychiatric residents shall hold a doctoral degree in medicine as a medical doctor or doctor of osteopathy and shall have successfully completed 1500 hours of supervised clinical experience as documented by the program director of a psychiatric residency program accredited by the accreditation council for graduate medical education.

4. Psychologists shall be licensed under ch. 455, Stats., and shall be listed or meet the requirements for listing with the national register of health service providers in psychology or have a minimum of one year of supervised post-doctoral clinical experience related directly to the assessment and treatment of individuals with mental disorders or substance-use disorders.

5. Licensed independent clinical social workers shall meet the qualifications established in ch. 457, Stats., and be licensed by the examining board of social workers, marriage and family therapists and professional counselors with 3000 hours of supervised clinical experience where the majority of clients are children or adults with mental disorders or substance-use disorders.

6. Professional counselors and marriage and family therapists shall meet the qualifications required established in ch. 457, Stats., and be licensed by the examining board of social workers, marriage and family therapists and professional counselors with 3000 hours of supervised clinical experience where the majority of clients are children or adults with mental disorders or substance-use disorders.

7. Adult psychiatric and mental health nurse practitioners, family psychiatric and mental health nurse practitioners or clinical specialists in adult psychiatric and mental health nursing shall be board certified by the American Nurses Credentialing Center, hold a current

license as a registered nurse under ch. 441, Stats., have completed 3000 hours of supervised clinical experience; hold a master's degree from a national league for nursing accredited graduate school of nursing; have the ability to apply theoretical principles of advanced practice psychiatric mental health nursing practice consistent with American Nurses Association scope and standards for advanced psychiatric nursing practice in mental health nursing from a graduate school of nursing accredited by the national league for nursing.

8. a. Advanced practice nurse prescribers shall be adult psychiatric and mental health nurse practitioners, family psychiatric and mental health nurse practitioners or clinical specialists in adult psychiatric and mental health nursing who are board certified by the American Nurses Credentialing Center; hold a current license as a registered nurse under ch. 441, Stats.; have completed 1500 hours of supervised clinical experience in a mental health environment; have completed 650 hours of supervised prescribing experience with clients with mental illness and the ability to apply relevant theoretical principles of advanced psychiatric or mental health nursing practice; and hold a master's degree in mental health nursing from a graduate school of nursing from an approved college or university.

b. Advanced practice nurses are not qualified to provide psychotherapy unless they also have completed 3000 hours of supervised clinical psychotherapy experience.

9. Certified social workers, certified advanced practice social workers and certified independent social workers shall meet the qualifications established in ch. 457, Stats., and related administrative rules, and have received certification by the examining board of social workers, marriage and family therapists and professional counselors.

10. Psychology residents shall hold a doctoral degree in psychology meeting the requirements of s. 455.04 (1) (c), Stats., and shall have successfully completed 1500 hours of supervised clinical experience as documented by the Wisconsin psychology examining board.

11. Physician assistants shall be certified and registered pursuant to ss. 448.05 and 448.07, Stats., and chs. Med 8 and 14.

12. Registered nurses shall be licensed under ch. 441, Stats.,

13. Occupational therapists shall be licensed and shall meet the requirements of s. 448.963 (2), Stats.

14. Master's level clinicians shall have a master's degree and coursework in areas directly related to providing mental health services including master's in clinical psychology, psychology, school or educational psychology, rehabilitation psychology, counseling and guidance, counseling psychology or social work.

15. Other professionals shall have at least a bachelor's degree in a relevant area of education or human services.

16. Alcohol and drug abuse counselors shall be certified by the Wisconsin certification board.

Note: The Wisconsin certification board is defined in s. HFS 75.02 (94) as “the agency authorized by the department to establish, test and apply standards of initial and ongoing competency for professionals in the substance abuse field through a certification process.”

17. Specialists in specific areas of therapeutic assistance, such as recreational and music therapists, shall have complied with the appropriate certification or registration procedures for their profession as required by state statute or administrative rule or the governing body regulating their profession.

18. Certified occupational therapy assistants shall be licensed and meet the requirements of s. 448.963 (3), Stats.

19. Licensed practical nurses shall be licensed under ch. 441, Stats..

20. A peer specialist, meaning a staff person who is at least 18 years old, shall have successfully completed 30 hours of training during the past two years in recovery concepts, consumer rights, consumer-centered individual treatment planning, mental illness, co-occurring mental illness and substance abuse, psychotropic medications and side effects, functional assessment, local community resources, adult vulnerability, consumer confidentiality, a demonstrated aptitude for working with peers, and a self-identified mental disorder or substance use disorder.

21. A rehabilitation worker, meaning a staff person working under the direction of a licensed mental health professional or substance abuse professional in the implementation of rehabilitative mental health, substance use disorder services as identified in the consumer's individual treatment plan who is at least 18 years old shall have successfully completed 30 hours of training during the past two years in recovery concepts, consumer rights, consumer-centered individual treatment planning, mental illness, co-occurring mental illness and substance abuse, psychotropic medications and side effects, functional assessment, local community resources, adult vulnerability, and consumer confidentiality.

22. Clinical students shall be currently enrolled in an accredited academic institution and working toward a degree in a professional area identified in this subsection and providing services to the CCS under the supervision of a staff member who meets the qualifications under this subsection for that staff member's professional area.

(3) VOLUNTEERS. A CCS may use volunteers to support the activities of staff members. Before a volunteer may work independently with a consumer or family member, the CCS shall conduct a background check on the volunteer. Each volunteer shall be supervised by a staff member qualified under sub. (2) (g) 1. to 17. and receive orientation and training under the requirements of s. HFS 36.12.

(4) DOCUMENTATION OF QUALIFICATIONS. Documentation of staff qualifications shall be available for review by consumers and parents or legal representatives of consumers if parental or legal representative consent to treatment is required.

HFS 36.11 Supervision and clinical collaboration. (1) (a) Each staff member shall be supervised and provided with the consultation needed to perform assigned functions and meet the credential requirements of this chapter and other state and federal laws and professional associations.

(b) Supervision may include clinical collaboration. Clinical collaboration may be an option for supervision only among staff qualified under s. HFS 36.10 (2) (g) 1. to 8. Supervision and clinical collaboration shall be accomplished by one or more of the following:

1. Individual sessions with the staff member case review, to assess performance and provide feedback.

2. Individual side-by-side session in which the supervisor is present while the staff member provides assessments, service planning meetings or psychosocial rehabilitation services and in which the supervisor assesses, teaches and gives advice regarding the staff member's performance.

3. Group meetings to review and assess staff performance and provide the staff member advice or direction regarding specific situations or strategies.

4. Any other form of professionally recognized method of supervision designed to provide sufficient guidance to assure the delivery of effective services to consumers by the staff member.

(2) Each staff member qualified under s. HFS 36.10 (2) (g) 9. to 22. shall receive day-to-day supervision and consultation and at least one hour of supervision per week or for every 30 clock hours of face-to-face psychosocial rehabilitation services or service facilitation they provide. Day-to day consultation shall be available during CCS hours of operation.

(3) Each staff member qualified under s. HFS 36.10 (2) (g) 1. to 8. shall participate in at least one hour of either supervision or clinical collaboration per month or for every 120-clock hours of face-to-face psychosocial rehabilitation or service facilitation they provide.

(4) Clinical supervision and clinical collaboration records shall be dated and documented with a signature of the person providing supervision or clinical collaboration in one or more of the following:

(a) The master log.

(b) Supervisory records.

(c) Staff record of each staff member who attends the session or review.

(d) Consumer records.

(5) The service director may direct a staff person to participate in additional hours of supervision or clinical collaboration beyond the minimum identified in this subsection in

order to ensure that consumers of the program receive appropriate psychosocial rehabilitation services.

(6) A staff member qualified under s. HFS 36.10 (2) (g) 1. to 8. who provides supervision or clinical collaboration may not deliver more than 60 hours per week of face-to-face psychosocial rehabilitation services, clinical services and supervision or clinical collaboration in any combination of clinical settings.

HFS 36.12 Orientation and training. (1) **ORIENTATION AND ONGOING TRAINING.** (a) *Orientation program.* The CCS shall develop and implement an orientation program that includes all of the following:

1. At least 40 hours of documented orientation training within 3 months of beginning employment for each staff member who has less than 6 months experience providing psychosocial rehabilitation services to children or adults with mental disorders or substance-use disorders.

2. At least 20 hours of documented orientation training within 3 months of beginning employment with the CCS for each staff member who has 6 months or more experience providing psychosocial rehabilitation services to children or adults with mental disorders or substance-use disorders.

3. At least 40 hours of documented orientation training for each regularly scheduled volunteer before allowing the volunteer to work independently with consumers or family members.

(b) *Orientation training.* Orientation training shall include and staff members shall be able to apply all of the following:

1. Parts of this chapter pertinent to the services they provide.

2. Policies and procedures pertinent to the services they provide.

3. Job responsibilities for staff members and volunteers.

4. Applicable parts of chs. 48, 51 and 55, Stats., and any related administrative rules.

5. The basic provisions of civil rights laws including the Americans with disabilities act of 1990 and the civil rights act of 1964 as the laws apply to staff providing services to individuals with disabilities.

6. Current standards regarding documentation and the provisions of HIPAA, s. 51.30, Stats., ch. HFS 92 and, if applicable, 42 CFR Part 2 regarding confidentiality of treatment records.

7. The provisions of s. 51.61, Stats., and ch. HFS 94 regarding patient rights.

8. Current knowledge about mental disorders, substance-use disorders and co-occurring disabilities and treatment methods.

8m. Recovery concepts and principles which ensure that services and supports promote consumer hope, healing, empowerment and connection to others and to the community; and are provided in a manner that is respectful, culturally appropriate, collaborative between consumer and service providers, based on consumer choice and goals and protective of consumer rights.

9. Current principles and procedures for providing services to children and adults with mental disorders, substance-use disorders and co-occurring disorders. Areas addressed shall include recovery-oriented assessment and services, principles of relapse prevention, psychosocial rehabilitation services, age-appropriate assessments and services for individuals across the lifespan, the relationship between trauma and mental and substance abuse disorders, and culturally and linguistically appropriate services.

10. Techniques and procedures for providing non-violent crisis management for consumers, including verbal de-escalation, methods for obtaining backup, and acceptable methods for self-protection and protection of the consumer and others in emergency situations, suicide assessment, prevention and management.

11. Training that is specific to the position for which each employee is hired.

Note: Service facilitators, for example, need a thorough understanding of facilitation and conflict resolution techniques, resources for meeting basic needs, any eligibility requirements of potential resource providers and procedures for accessing these resources. Mental health professionals and substance abuse professionals will need training regarding the scope of their authority to authorize services and procedures to be followed in the authorization process.

(c) *Ongoing training program.* The CCS shall ensure that each staff member receives at least 8 hours of inservice training a year that shall be designed to increase the knowledge and skills received by staff members in the orientation training provided under par. (b). Staff shared with other community mental health or substance abuse programs may apply documented in-service hours received in those programs toward this requirement if that training meets the requirements under this chapter. Ongoing in-service training shall include one or more of the following:

1. Time set aside for in-service training, including discussion and presentation of current principles and methods of providing psychosocial rehabilitation services.

2. Presentations by community resource staff from other agencies, including consumer operated services.

3. Conferences or workshops.

(d) *Training records.* Updated, written copies of the orientation and ongoing training programs and documentation of the orientation and ongoing training received by staff members and volunteers shall be maintained as part of the central administrative records of the CCS.

SUBCHAPTER V CONSUMER SERVICES

HFS 36.13 Consumer application. (1) APPLICATION. Any person seeking services under this chapter shall complete an application for services. Upon receipt of an application the CCS shall determine the applicant's need for psychosocial rehabilitation services pursuant to s. HFS 36.14.

(1m) ADMISSION AGREEMENT. An admission agreement that includes all of the following shall be signed by applicant at the time of application to the CCS:

(a) The nature of the CCS in which the consumer will be participating, including the hours of operation and how to obtain crisis services during hours in which the CCS does not operate, and staff member titles and responsibilities.

(b) The consumer rights under s. HFS 36.19.

(c) An acknowledgement of receipt and understanding of the information received in pars. (a) and (b).

(2) SERVICES PENDING DETERMINATION OF THE NEED FOR PSYCHOSOCIAL REHABILITATION SERVICES. Pending determination of the need for psychosocial rehabilitation services, the CCS shall identify any immediate needs of the consumer. The applicant may be provided with psychosocial rehabilitation services and supportive activities, including identifying recovery team members under s. 36.16 (7) to meet those needs only after the occurrence of all of the following:

(a) A mental health professional has authorized services as evidenced by the signature of the mental health professional as required in s. HFS 36.15.

(b) The assessment of initial needs and the authorization for services have been documented.

(c) An admission agreement is signed by the applicant.

(3) DETERMINATION OF THE NEED FOR PSYCHOSOCIAL REHABILITATION SERVICES. The determination of the need for psychosocial rehabilitation services shall be determined pursuant to s. HFS 36.14.

(4) DISCRIMINATION PROHIBITED. The CCS shall ensure that no consumer is denied benefits or services or is subjected to discrimination on the basis of age, race or ethnicity, religion, color, sexual orientation, marital status, arrest or conviction record, ancestry, national origin, disability, gender, sexual orientation or physical condition.

HFS 36.14 Criteria for determining the need for psychosocial rehabilitation services. Psychosocial rehabilitation services shall be available to individuals who are determined to require more than outpatient counseling but less than the services provided by a community support program under s. 51. 421, Stats., and ch. HFS 63, as a result of a department-approved functional screen and meet all of the following criteria:

(1) Has a diagnosis of a mental disorder or a substance use disorder.

(2) Has a functional impairment that interferes with or limits one or more major life activities and results in needs for services that are described as ongoing, comprehensive and either high-intensity or low-intensity. Determination of a qualifying functional impairment is dependent upon whether the applicant meets one of the following descriptions:

(a) 'Group 1'. Persons in this group include children and adults in need of ongoing, high-intensity, comprehensive services who have diagnoses of a major mental disorder or substance-use disorder, and substantial needs for psychiatric, substance abuse, or addiction treatment.

(b) 'Group 2'. Persons in this group include children and adults in need of ongoing, low-intensity comprehensive services who have a diagnosed mental or substance-use disorder. These individuals generally function in a fairly independent and stable manner but may occasionally experience acute psychiatric crises.

Note: Appropriate identification of mental health or substance-use related problems for this group is critical, especially because they are often first seen in non-mental health or substance-use treatment settings, e.g., primary care sector, school system, law enforcement, child welfare, aging services, domestic violence shelters, etc.

(3) (a) If the department-approved functional screen cannot be completed at the time of the consumer's application, the CCS shall conduct an assessment of the applicant's needs pursuant to s. HFS 36.16 (3) and (4). An assessment conducted under s. HFS 36.16 (3) and (4) may be abbreviated if any one of the conditions under s. HFS 36.16 (5) applies.

(b) If an applicant is determined to not need psychosocial rehabilitation services, no additional psychosocial rehabilitation services may be provided to the applicant. The applicant shall be given written notice of the determination and referred to a non-CCS program. The applicant may submit a written request for a review of the determination to the department.

Note: A written request for a review of the determination of need for psychosocial rehabilitation services should be addressed to the Bureau of Mental Health and Substance Abuse Services, 1 W. Wilson Street, Room 433, PO Box 7851, Madison, WI 53707-7851.

(c) If an applicant is determined to need psychosocial rehabilitation services, a comprehensive assessment shall be conducted under s. HFS 36.16 (3) and (4) unless the following conditions are present:

1. A comprehensive assessment was conducted and completed under par. (a).
2. The consumer qualifies for an abbreviated assessment under s. HFS 36.16 (5).

HFS 36.15 Authorization of services. (1) Before a service is provided to an applicant under s. HFS 36.13 (2) or 36.17, a mental health professional shall do all of the following:

(a) Review and attest to the applicant's need for psychosocial rehabilitation services and medical and supportive activities to address the desired recovery goals.

(b) Assure that a statement authorizing the proposed psychosocial rehabilitation services under the standards set forth in par. (a) is provided and filed in the consumer service record.

(2) If the applicant has or may have a substance-use disorder, a substance abuse professional shall also sign the authorization for services.

HFS 36.16 Assessment process. (1) **POLICIES AND PROCEDURES.** The CCS shall implement policies and procedures that address the requirements under this section.

(2) **FACILITATION.** All of the following shall occur concerning the assessment:

(a) The assessment process and the assessment summary required under sub. (6) shall be completed within 30 days of receipt of an application for services. The assessment process shall be explained to the consumer and, if appropriate, a legal representative or family member.

(b) The assessment process shall be facilitated by a service facilitator.

(c) Substance use diagnoses shall be established by a substance abuse professional. An assessment of the consumer's substance use, strengths and treatment needs also shall be conducted by a substance abuse professional.

(3) **ASSESSMENT CRITERIA.** The assessment shall be comprehensive and accurate. The assessment shall be conducted within the context of the domains listed in sub. (4), and any other domains identified by the CCS, and shall be consistent with all of the following:

(a) Be based upon known facts and recent information and evaluations and include assessment for co-existing mental health disorders, substance-use disorders, physical or mental impairments and medical problems.

(b) Be updated as new information becomes available.

(c) Address the strengths, needs, recovery goals, priorities, preferences, values and lifestyle of the consumer.

(d) Address age and developmental factors that influence appropriate outcomes, goals and methods for addressing them.

(e) Identify the cultural and environmental supports as they affect identified goals and desired outcomes and preferred methods for achieving the identified goals.

(f) Identify the consumer's recovery goals and understanding of options for treatment, psychosocial rehabilitation services and self-help programs to address those goals.

(4) ASSESSMENT DOMAINS. The assessment process shall address all of the following domains of functioning:

(a) Life satisfaction.

(b) Basic needs.

(c) Social network and family involvement. In this paragraph "family involvement" means the activities of a family member to support a consumer receiving psychosocial rehabilitation services. Except where rights of visitation have been terminated, the family of a minor shall always be included. The family of an adult consumer may be involved only when the adult has given written permission.

(d) Community living skills.

(e) Housing issues.

(f) Employment.

(g) Education.

(h) Finances and benefits.

(i) Mental health.

(j) Physical health.

(k) Substance use.

(L) Trauma and significant life stressors.

(m) Medications.

(n) Crisis prevention and management.

(o) Legal status.

(p) Any other domain identified by the CCS.

(5) ABBREVIATED ASSESSMENT. (a) The assessment in sub. (3) may be abbreviated if the consumer has signed an admission agreement and one of the following circumstances apply:

1. The consumer's health or symptoms are such that only limited information can be obtained immediately.

2. The consumer chooses not to provide information necessary to complete a comprehensive assessment at the time of application.

3. The consumer is immediately interested in receiving only specified services that require limited information.

(b) An assessment conducted under this subsection shall meet the requirements under sub. (3) to the extent possible within the context that precluded a comprehensive assessment.

(c) The assessment summary required to be completed under sub. (6) shall include the specific reason for abbreviating the assessment.

(d) An abbreviated assessment shall be valid for up to 3 months from the date of the application. Upon the expiration date, a comprehensive assessment shall be conducted to continue psychosocial rehabilitation services. If a comprehensive assessment cannot be conducted when the abbreviated assessment expires, the applicant shall be given notice of a determination that the consumer does not need psychosocial rehabilitation services pursuant to the requirements of s. HFS 36.14 (3) (b).

(6) ASSESSMENT SUMMARY. The assessment shall be documented in an assessment summary that shall be prepared by a mental health professional or substance abuse professional and shall include all of the following:

(a) The period of time within which the assessment was conducted. Each meeting date shall be included.

(b) The information on which outcomes and service recommendations are based.

(c) Desired outcomes and measurable goals desired by the consumer.

(d) The names and relationship to the consumer of all individuals who participated in the assessment process.

(e) Significant differences of opinion, if any, which are not resolved among members of the recovery team.

(f) Signatures of persons present at meetings being summarized.

(7) RECOVERY TEAM. (a) The consumer shall be asked to participate in identifying members of the recovery team.

(am) The recovery team shall include all of the following:

1. The consumer.

2. A service facilitator.

3. A mental health professional or substance abuse professional. If the consumer has or is believed to have a co-occurring condition, the recovery team shall consult with an individual who has the qualifications of a mental health professional and substance abuse

professional or shall include both a mental health professional and substance abuse professional or a person who has the qualifications of both a mental health professional and substance abuse professional on the recovery team.

4. Service providers, family members, natural supports and advocates shall be included on the recovery team, with the consumer's consent, unless their participation is unobtainable or inappropriate.

5. If the consumer is a minor or is incompetent or incapacitated, a parent or legal representative of the consumer, as applicable, shall be included on the recovery team.

(b) 1. The recovery team shall participate in the assessment process and in service planning. The role of each team member shall be guided by the nature of team member's relationship to the consumer and the scope of the team member's practice.

2. Team members shall provide information, evaluate input from various sources, and make collaborative recommendations regarding outcomes, psychosocial rehabilitation services and supportive activities. This partnership shall be built upon the cultural norms of the consumer.

HFS 36.17 Service planning and delivery processes. (1) **POLICIES AND PROCEDURES.** The CCS shall implement policies and procedures that address the requirements under this section.

(2) **FACILITATION OF SERVICE PLANNING.** (a) A written service plan shall be based upon the assessment and completed within 30 days of the consumer's application for services. The service plan shall include a description of all of the following:

(b) The service planning process shall be explained to the consumer and, if appropriate, a legal representative or family member.

(c) The service planning process shall be facilitated by the service facilitator in collaboration with the consumer and recovery team.

(d) Service planning shall address the needs and recovery goals identified in the assessment.

(2m) **SERVICE PLAN DOCUMENTATION.** (a) The service plan shall include a description of all of the following:

1. The service facilitation activities, that will be provided to the consumer or on the consumer's behalf.

2. The psychosocial rehabilitation and treatment services, to be provided to or arranged for the consumer, including the schedules and frequency of services provided.

3. The service providers and natural supports who are or will be responsible for providing the consumer's treatment, rehabilitation, or support services and the payment source for each.

4. Measurable goals and type and frequency of data collection that will be used to measure progress toward desired outcomes.

(b) An attendance roster shall be signed by each person, including recovery team members in attendance at each service planning meeting. The roster shall include the date of the meeting and the name, address, and telephone number of each person attending the meeting. Each original, updated, and partially completed service plan shall be maintained in the consumer's service record as required in s. HFS 36.18.

(c) The completed service plan shall be signed by the consumer, a mental health or substance abuse professional and the service facilitator.

(d) Documentation of the service plan shall be available to all members of the recovery team.

(3) SERVICE PLAN REVIEW. The service plan for each consumer shall be reviewed and updated as the needs of the consumer change or at least every 6 months. A service plan that is based on an abbreviated assessment shall be reviewed and updated upon the expiration of the abbreviated assessment or before that time if the needs of the consumer change. The review shall include an assessment of the progress toward goals and consumer satisfaction with services.

(4) SERVICE DELIVERY. (a) Psychosocial rehabilitation and treatment services shall be provided in the most natural and least restrictive manner and most integrated settings practicable consistent with current legal standards, be delivered with reasonable promptness, and build upon the natural supports available in the community.

(b) Services shall be provided with sufficient frequency to support achievement of goals identified in the service plan.

(c) Documentation of the services shall be included in the service record of the consumer under the requirements in s. HFS 36.18.

(5) DISCHARGE. (a) Discharge from the CCS shall be based on the discharge criteria in the service plan of the consumer unless any one of the following applies:

1. The consumer no longer wants psychosocial rehabilitation services.
2. The whereabouts of the consumer are unknown for at least 3 months despite diligent efforts to locate the consumer.
3. The consumer refuses services from the CCS for at least 3 months despite diligent outreach efforts to engage the consumer.
4. The consumer enters a long-term care facility for medical reasons and is unlikely to return to community living.
5. The consumer is deceased.

6. Psychosocial rehabilitation services are no longer needed.

(am) When a consumer is discharged from the CCS program, the consumer shall be given written notice of the discharge. The notice shall include all of the following:

1. A copy of the discharge summary developed under par. (b).
2. Written procedures on how to re-apply for CCS services.

3. If a consumer is involuntarily discharged from the CCS program and the consumer receives Medical Assistance, the fair hearing procedures prescribed in s. HFS 104.01 (5). For all other consumers, information on how the consumer can submit a written request for a review of the discharge to the department.

Note: A written request for review of the determination of need for psychosocial rehabilitation services should be addressed to the Bureau of Mental Health and Substance Abuse Services, 1 W. Wilson Street, Room 433, P.O. Box 7851, Madison, WI 53707-7851.

(b) The CCS shall develop a written discharge summary for each consumer discharged from psychosocial rehabilitation services. The discharge summary shall include all of the following:

1. The reasons for discharge.
2. The consumer's status and condition at discharge including the consumer's progress toward the outcomes specified in the service plan.
3. Documentation of the circumstances, as determined by the consumer and recovery team, that would suggest a renewed need for psychosocial rehabilitation services.
4. For a planned discharge, the signature of the consumer, the service facilitator, and mental health professional or substance abuse professional. With the consumer's consent, this summary shall be shared with providers who will be providing subsequent services.

HFS 36.18 Consumer service records. (1) Each consumer service record shall be maintained pursuant to the confidentiality requirements under HIPAA, s. 51.30, Stats., ch. HFS 92 and , if applicable, 42 CFR Part 2. Electronic records and electronic signatures shall meet the HIPAA requirements in 45 CFR 164, Subpart C.

(2) The CCS shall maintain in a central location a service record for each consumer. Each record shall include sufficient information to demonstrate that the CCS has an accurate understanding of the consumer, the consumer's needs, desired outcomes and progress toward goals. Entries shall be legible, dated and signed.

(3) Each consumer record shall be organized in a consistent format and include a legend to explain any symbol or abbreviation used. All of the following information shall be included in the consumer's record:

(a) Results of the assessment completed under s. HFS 36.16, including the assessment summary.

(b) Initial and updated service plans, including attendance rosters from service planning sessions.

(c) Authorization of services statements.

(d) Any request by the consumer for a change in services or service provider and the response by the CCS to such a request.

(e) Service delivery information, including all of the following:

1. Service facilitation notes and progress notes.

2. Records of referrals of the consumer to outside resources.

3. Descriptions of significant events that are related to the consumer's service plan and contribute to an overall understanding of the consumer's ongoing level and quality of functioning.

4. Evidence of the consumer's progress, including response to services, changes in condition and changes in services provided.

5. Observation of changes in activity level or in physical, cognitive or emotional status and details of any related referrals.

6. Case conference and consultation notes.

7. Service provider notes in accordance with standard professional documentation practices.

8. Reports of treatment, or other activities from outside resources that may be influential in the CCS's service planning.

(f) A list of current prescription medication and regularly taken over the counter medications. Documentation of each prescribed medication shall include all of the following:

1. Name of the medication and dosage.

2. Route of administration.

3. Frequency.

4. Duration, including the date the medication is to be stopped.

5. Intended purpose.

6. Name of the prescriber. The signature of prescriber is also required if the CCS prescribes medication as a service.

7. Activities related to the monitoring of medication including monitoring for desired responses and possible adverse drug reactions, as well as an assessment of the consumer's ability to self-administer medication.

8. If a CCS staff member administers medications, each medication administered shall be documented on the consumer's individual medication administration record (MAR) including, the time the medication was administered and by whom and observation of adverse drug reactions, including a description of the adverse drug reaction, the time of the observation and the date and time the prescriber of the medication was notified. If a medication was missed or refused by the consumer, the record shall explicitly state the time that it was scheduled and the reason it was missed or refused.

(g) Signed consent forms for disclosure of information and for medication administration and treatment.

(h) Legal documents addressing commitment, guardianship, and advance directives.

(i) Discharge summary and any related information.

(j) Any other information that is appropriate for the consumer service record.

HFS 36.19 Consumer rights. (1) The CCS shall comply with the patient rights and grievance resolution procedures in s. 51.61, Stats., and ch. HFS 94., and all of the following:

1. Choice in the selection of recovery team members, services, and service providers.

2. The right to specific, complete and accurate information about proposed services.

3. For Medical Assistance consumers, the fair hearing process under s. HFS 104.01 (5). For all other consumers how to request a review of a CCS determination by the department.

Note: A written request for review of the determination of need for psychosocial rehabilitation services should be addressed to the Bureau of Mental Health and Substance Abuse Services, 1 W. Wilson Street, Room 433, P.O. Box 7851, Madison, WI 53707-7851

(2) The service facilitator shall ensure that the consumer understands the options of using the formal and informal grievance resolution process in s. HFS 94.40 (4) and (5).

SECTION 2. HFS 105.257 is created to read:

HFS 105.257. Community-based psychosocial service programs. For MA certification as a community-based psychosocial service program under s. 49.45 (30e), Stats., a provider shall be certified as a comprehensive community services program under

ch. HFS 36. The department may waive a requirement in ss. HFS 36.04 to 36.12 under the conditions specified in s. HFS 36.065 if requested by a provider. Certified providers under this section may provide services directly or may contract with other qualified providers to provide all or some of the services described in s. HFS 107.13 (7).

SECTION 3. HFS 107.13 (2) (c) 5. and (4) (c) 4. are amended to read:

HFS 107.13 (2) (c) 5. Services under this subsection are not reimbursable if the recipient is receiving community support program services under sub. (6) or psychosocial services provided through a community-based psychosocial service program under sub. (7).

(4) (c) 4. Services under this subsection are not reimbursable if the recipient is receiving community support program services under sub. (6) or psychosocial services provided through a community-based psychosocial service program under sub. (7).

SECTION 4. HFS 107.13 (6) (b) 4. and (7) are created to read:

HFS 107.13 (6) (b) 4. Reimbursement is not available for a person participating in the program under this subsection if the person is also participating in the program under sub. (7).

(7) PSYCHOSOCIAL SERVICES PROVIDED THROUGH A COMMUNITY-BASED PSYCHOSOCIAL SERVICE PROGRAM. (a) *Covered services.* Psychosocial services provided through a community-based psychosocial service program shall be covered services when authorized by a mental health professional under s. HFS 36.15 for recipients determined to have a need for the services under s. HFS 36.14. These non-institutional services must fall within the definition of “rehabilitative services” under 42 CFR s. 440.130 (d) and must be described in a service plan under s. HFS 36.17. Covered services include assessment under s. HFS 36.16 and service planning and review under s. HFS 36.17.

(b) *Other limitations.* 1. Mental health services under s. HFS 107.13 (2) and (4) are not reimbursable for recipients receiving services under this subsection.

2. Group psychotherapy is limited to no more than 10 persons in a group. No more than 2 professionals shall be reimbursed for a single session of group psychotherapy. Mental health technicians shall not be reimbursed for group psychotherapy.

3. Reimbursement is not available for a person participating in the program under this subsection if the person is also participating in the program under sub. (6).

(c) *Non-covered services.* The following are not covered services under this subsection:

1. Case management services provided under s. HFS 107.32 by a provider not certified under s. HFS 105.257 to provide services under this section.

2. Services provided to a resident of an intermediate care facility, skilled nursing facility or an institution for mental diseases, or to a hospital patient unless the services are performed to prepare the recipient for discharge from the facility to reside in the community.

3. Services performed by volunteers, except that out-of-pocket expenses incurred by volunteers in performing services may be covered.

4. Services that are not rehabilitative, including services that are primarily recreation-oriented.

5. Legal advocacy performed by an attorney or paralegal.

The rules contained in this order shall take effect as emergency rules on July 1, 2004.

Wisconsin Department of Health
and Family Services

Dated:

By: _____
Helene Nelson,
Secretary

SEAL: